

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

TAMARA MERSCHAT,)
)
Plaintiff,) CIVIL ACTION NO. 2:21-cv-01835
)
v.)
)
SIEMENS HEALTHINEERS,)
)
Defendant.)

ANSWER AND AFFIRMATIVE DEFENSES TO PLAINTIFF'S COMPLAINT

Defendant Siemens Healthcare Diagnostics Inc., incorrectly identified as Siemens Healthineers (“SDHI”), by and through its undersigned counsel, files this Answer and Affirmative Defenses to the Complaint filed by Plaintiff Tamara Merschat (“Plaintiff”). Unless specifically admitted herein, SDHI denies each factual allegation of the Complaint. SDHI respectfully states and alleges as follows:

Parties & Venue

1. SDHI admits the averments in paragraph 1.
2. SDHI denies the averments in paragraph 2.
3. SDHI admits that venue is proper.

Facts

4. SDHI admits the averments in paragraph 4.
5. SDHI denies the averments in paragraph 5.
6. SDHI denies the averments in paragraph 6.
7. SDHI denies the averments in paragraph 7.
8. SDHI denies the averments in paragraph 8.
9. SDHI denies the averments in paragraph 9.

10. SDHI denies the averments in paragraph 10.

11. SDHI denies the averments in paragraph 11.

12. SDHI admits that after it made a shipment to UPMC, it paid her \$2,806.48. SDHI denies the remaining averments in paragraph 12.

13. SDHI denies the averments in paragraph 13.

14. SDHI admits in part and denies in part the averments in paragraph 14. SDHI admits that Plaintiff has made multiple requests to be paid additional commissions based on the master agreement UPMC entered into with SDHI, but SDHI denies that Plaintiff is owed any additional commissions based on the master agreement.

15. The averments in paragraph 15 constitute conclusions of law to which no response is required. To the extent a response is deemed necessary, SDHI denies the averments.

Breach of Contract

16. SDHI hereby incorporates by reference its responses to paragraphs 1-15 as if set forth fully herein.

17. The averments in paragraph 17 constitute conclusions of law to which no response is required. To the extent a response is deemed necessary, SDHI denies the averments.

18. The averments in paragraph 18 constitute conclusions of law to which no response is required. To the extent a response is deemed necessary, SDHI denies the averments.

19. The averments in paragraph 19 constitute conclusions of law to which no response is required. To the extent a response is deemed necessary, SDHI denies the averments.

20. The averments in paragraph 20 and subparts (a) – (g) constitute conclusions of law to which no response is required. To the extent a response is deemed necessary, SDHI denies the averments.

21. SDHI denies the averments in paragraph 21.

22. SDHI denies the averments in paragraph 22.

Affirmative Defenses

1. Plaintiff fails to state a claim upon which relief can be granted.

2. The document attached to Plaintiff's complaint as Exhibit A does not constitute a contract.

3. There is a good-faith dispute as to whether any wages are due, thus Plaintiff is not entitled to liquidated damages.

4. SDHI at all times acted in good faith and in accordance with the law..

WHEREFORE, SDHI respectfully requests that Plaintiff's Complaint be dismissed with prejudice, as it fails to state a claim upon which relief may be granted; that judgment be entered in its favor and against Plaintiff; and that the Court award such other relief as it deems appropriate.

Respectfully submitted,

/s/ Mark T. Phllis

Mark T. Phllis
PA ID No. 66117
mphilis@littler.com

LITTLER MENDELSON, P.C.
625 Liberty Avenue, 26th Floor
Pittsburgh, PA 15222
PH: 412.201.7636
FAX: 412.774.1956

Attorneys for Defendant,
Siemens Healthcare Diagnostics Inc.
incorrectly named by its trade name Siemens
Healtineers

Dated: December 23, 2021

CERTIFICATE OF SERVICE

I hereby certify that on December 23, 2021, a true and correct copy of the foregoing Answer and Affirmative Defenses to Plaintiff's Complaint was served via U.S. first class mail, postage prepaid, upon the following counsel of record:

Jordan Lee Strassburger, Esq.
STRASSBURGER MCKENNA GUTNICK & GEFSKY
Four Gateway Center, Suite 2200
444 Liberty Avenue
Pittsburgh, PA 15222

By: Mark T. Phllis

4869-5431-8343.2 / 069996-1045